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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,753

12/04/2003

Johann Mescth

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EXAMINER

GREENE, DANIEL LAWSON

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/727,753

Applicant(s)

MESETH, JOHANN

Examiner

Daniel L. Greene Jr.

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/30/2007 has been entered.

Claims 1 and 3-5 are pending. Only claim 1 has been amended in the response received 3/20/2007.

Response to Arguments

2. Applicant's arguments with respect to the Kobayashi reference have been fully considered and are persuasive because, for example, Kobayashi does not explicitly disclose that the outlet openings are directed towards the surface defining the horizontal. Accordingly, the rejections regarding Kobayashi set forth in sections 4 and 6 of the previous Office action mailed 12/01/2006 (and accordingly sections 6 and 9 of the Office action mailed 6/20/2006) have been withdrawn.

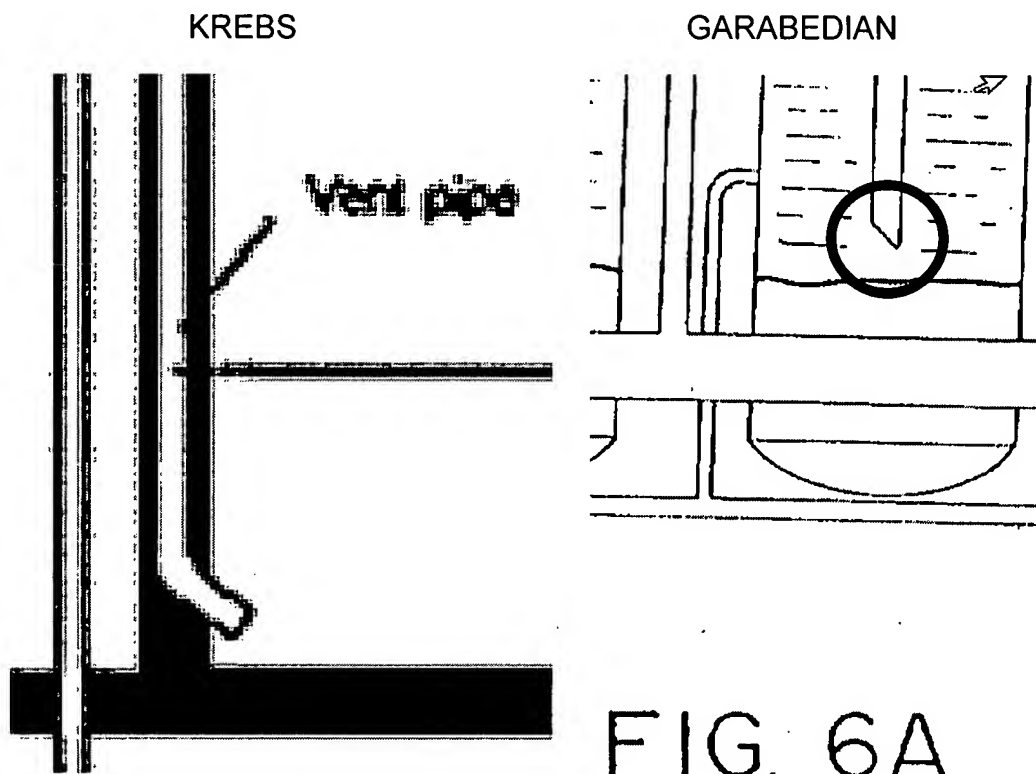
3. Applicant's arguments filed 3/30/2007 regarding section 5 and 6 of the previous Office action have been fully considered but they are not persuasive.

Krebs as modified by Garabedian as explained on, for example, pages 5-6 of the previous Office action mailed 12/01/2006 and set forth on pages 6-8 of the previous Office action mailed 6/20/2006 clearly discloses applicant's claimed invention.

Again, Garabedian sets forth in, for example, column 6, lines 11-15 that it is old and advantageous to cut the angle of the outlet nozzle at a 45 degree angle for the benefit of eliminating major hydrodynamic pressure disturbances due to a chugging type of steam condensation.

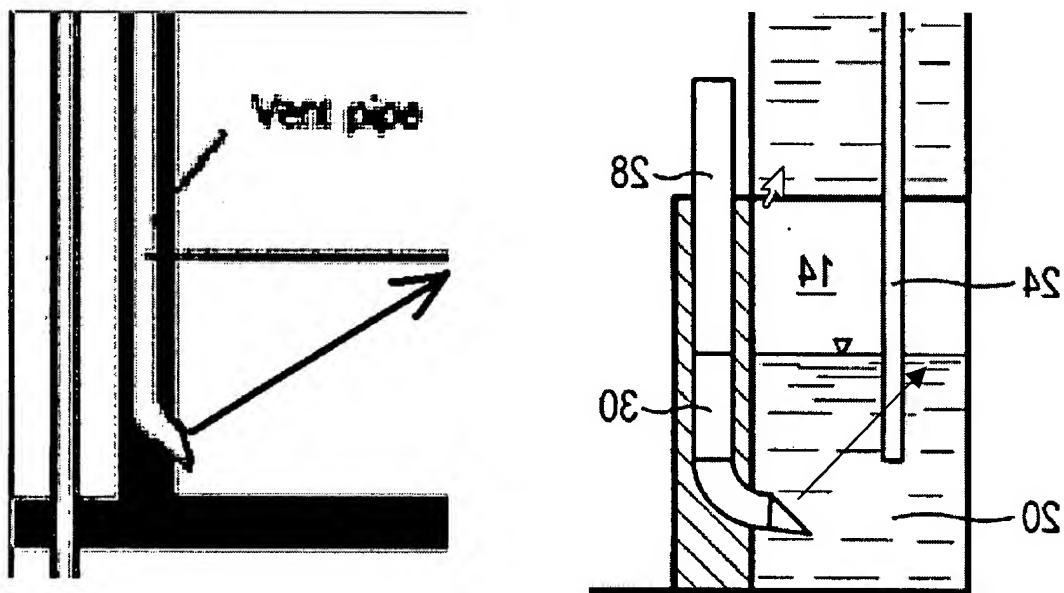
Further, the Examiner has cited case law on said page 8 of said 6/20/2006 Office action that it would be obvious to vary the angle of the outlet nozzle to achieve a desired result, i.e. less chugging.

The COMBINATION of KREBS and GARABEDIAN does indeed disclose a tube section having a beveled end defining an outlet opening directed towards the surface defining the horizontal as shown below.



KREBS AS MODIFIED BY GARABEDIAN

Mirror of Instant App. Fig. 1



As can be seen by this pictorial, Krebs modified with a 45 degree angled (beveled) end is indeed directed towards the surface defining the horizontal in a manner similar to applicant's own invention. Accordingly, Krebs modified by Garabedian reads on Applicant's invention.

4. Regarding section 6 of the previous Office action mailed 12/01/2006 (which in turn refers back to sections 8 and 9 of the previous Office action mailed 6/20/2006), Applicant merely argued that the base claims were allowable and therefore the dependant claims were also because the references did not make up for the alleged deficiencies of the art as applied to the base claims. Since the Examiner has again explained how the references do indeed read on the claim language as broadly

interpreted, these claims remain rejected and the previous rejections of these sections are incorporated herein by reference. Note that the rejection of section 9 was withdrawn above.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

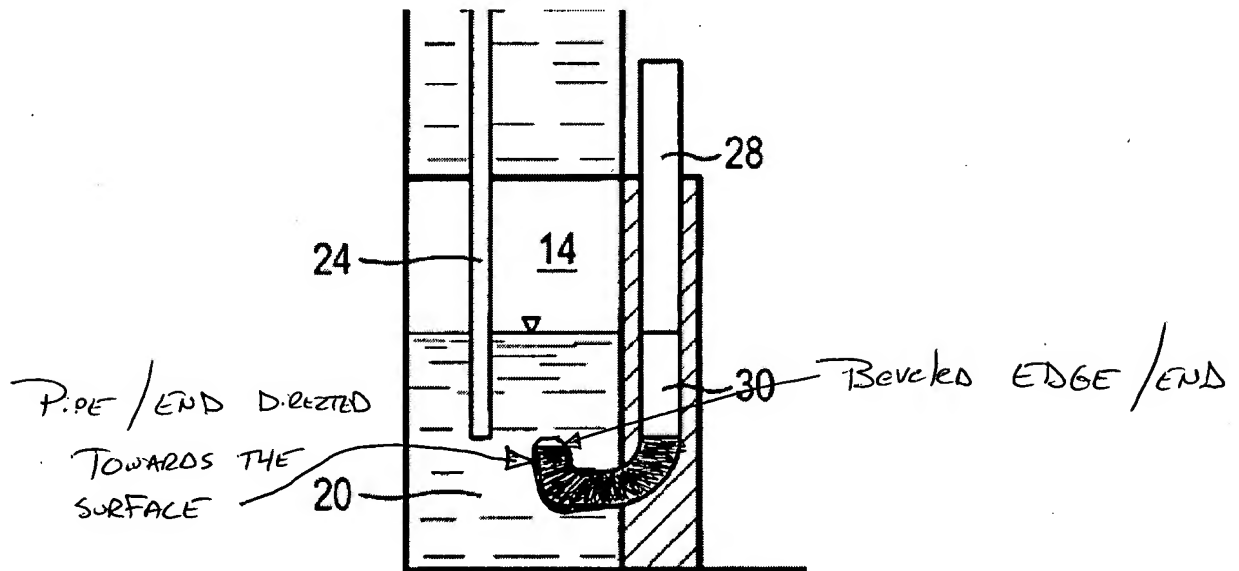
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 1 is vague, indefinite and incomplete in what all is meant by and encompassed by the phrase "a beveled end defining an outlet opening directed towards the surface defining the horizontal" because the limitations "beveled end" and "directed towards the surface defining the horizontal" are not considered as having the same meaning as the claim was previously worded. That is, "directed towards the surface defining the horizontal" is vague and indefinite as to how and in what manner the outlet opening is directed towards the surface. The claim is vague in that it fails to disclose whether it is partially directed towards the surface, completely directed towards the surface, etc. Accordingly the metes and bounds of the claim are undefined.

b. Claim 1 is further vague and indefinite in that it implies that the outlet opening is directed towards the surface defining the horizontal and that said tube section is beveled. This reads on the following depiction which is neither

contemplated nor disclosed within the instant application. That is, a pipe that is directed towards the surface that has a beveled edge.



6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

7. In order to maintain a clear prosecution history the following rejections have been reproduced from previous Office actions.

8. Claims 1, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs Figure 4 in view of U.S. Patent 4,986,956 to Garabedian for the reasons set forth in section 5 of the Final Office action mailed 11/29/2005 as explained in more detail in section 3 above as well as in the Office actions mailed 6/20/2006 (section 7 (pages 6-8)) and 12/01/2006 (Section 5 (pages 4-6)).

9. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs Figure 4 in view of U.S. Patent 4,986,956 to Garabedian as applied to claims 1 and 5 above and further in view of either Introduction to Fluid Mechanics second edition to John et al. or Piping Handbook Seventh edition to Nayyer for the reasons set forth in section 6 of the Final Office action mailed 11/29/2005 as explained in more detail in section 4 above as well as in the Office actions mailed 6/20/2006 (section 8 (pages 8-10)) and 12/01/2006 (Section 6 (page 6)).

Conclusion

10. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3694


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2007-06-05


ELLA COLBERT
PRIMARY EXAMINER